

Gary Lincenberg and Naomi Solomon Secure Complete Dismissal in Solar Project Nest Removal Case

In September 2019, the Los Angeles District Attorney's Office brought charges against SWCA Environmental Consultants and one of its biologists, along with two other companies. The District Attorney alleged that their involvement in the routine removal of an inactive bird's nest in connection with a large-scale solar power project in Antelope Valley violated the California Fish and Game Code.

On September 30, 2020, Governor Newsom signed Assembly Bill 3234 into law. It sets forth California's new pretrial diversion program (Pen. Code § 1001.95(b)), effective January 1, 2021. Building on strong arguments that their clients did not violate the law and that the statute under which the District Attorney brought its charges was unconstitutionally vague, Lincenberg and Solomon successfully argued that the new diversion law should apply to their clients.

On March 24, 2021, the Court granted – over the prosecutor's objection – their motion for pretrial diversion, and on September 24, 2021, the Court dismissed all charges against SWCA and the biologist.

To learn more about Bird Marella's criminal and environmental defense practice, click [here](#).